

Before the
Administrative Hearing Commission
State of Missouri



RACHEL ADAMS,)	
)	
Petitioner,)	
)	
vs.)	No. 13-1093 RV
)	
DIRECTOR OF REVENUE,)	
)	
Respondent.)	

DECISION

Rachel Adams is not entitled to a refund of fees paid for tabs renewing her motor vehicle license plates.

Procedure

On June 17, 2013, Adams filed a complaint seeking a refund of fees paid for tabs renewing her license plates for her 1970 Chevelle SS motor vehicle. The Director of Revenue (“Director”) filed an answer and motion for decision on the pleadings on June 28, 2013. Adams did not respond to the Director’s motion even though we gave her until July 16, 2013, to respond.

Regulation 1 CSR 15-3.446(3) provides:

A decision on the pleadings is a decision without hearing based solely on the complaint and the answer. The commission may grant a motion for decision on the pleadings if a party’s pleading, taken as true, entitles another party to a favorable decision.

Facts Taken as True for Purposes of Ruling on the Motion

Based upon the complaint, which we take as true for purposes of ruling on the motion for decision on the pleadings, we find the following facts:

1. Sometime prior to June 1, 2013, Adams paid fees to renew the license plates on her 1970 Chevelle SS.¹
2. Adams sold the 1970 Chevelle SS on June 1, 2013.
3. Prior to selling the 1970 Chevelle SS, Adams had “just” renewed the license plates on her other two motor vehicles.
4. Between June 1, 2013, and June 11, 2013, Adams requested a refund of the fees she paid for the renewal of license plates on the 1970 Chevelle SS.
5. On June 11, 2013, the Director issued a final decision denying Adams’ refund application.

Conclusions of Law

This Commission has jurisdiction over appeals from the Director’s final decisions.² Adams has the burden to prove that he is entitled to a refund.³ Our duty is not merely to review the Director's decision, but to independently apply existing law to the facts and render the ultimate administrative decision.⁴

Adams argues that she is entitled to a refund because the fees were paid for license plate tabs that will never be used. The Director argues that no provision of law authorizes him to issue a refund under these circumstances. The Director is correct.

¹ Adams does not specify how much she paid in fees.

²Section 621.050, RSMo 2000. Statutory references are to RSMo Supp. 2012 unless otherwise noted.

³*Id.*

⁴*J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20-21 (Mo. 1990).

A refund is a limited waiver of sovereign immunity and is not allowed unless expressly permitted by statute.⁵ “When a state consents to be sued, it may be proceeded against only in the manner and to the extent provided by the statute; and the state may prescribe the procedure to be followed and such other terms and conditions as it sees fit.”⁶

Subsections 3 and 8 of § 301.140 authorize transfers of license plates and surrender of license plates. Both of these subsections explicitly state that no refunds will be given. The only statutory provision that we can find that would allow a refund for some license plates fees is § 301.121. That statute provides for a refund of certain amounts paid when a license plate is surrendered. That section, however, does not apply to Adams because it only applies to commercial vehicles registered in excess of fifty-four thousand pounds.

We have found no provision of law allowing a refund to Adams. Neither the Director nor this Commission can change the law.⁷ We have no authority to allow a refund under these circumstances.

Summary

Adams is not entitled to a refund of fees paid for the renewal of license plates for her 1970 Chevelle SS motor vehicle.

SO ORDERED on September 6, 2013.

\s\ Nimrod T. Chapel, Jr.
NIMROD T. CHAPEL, JR.
Commissioner

⁵*Community Fed. Sav. & Loan Ass’n v. Director of Revenue*, 796 S.W.2d 883, 885 (Mo. 1990).

⁶*State ex rel. Brady Motorfrate, Inc. v. State Tax Comm’n*, 517 S.W.2d 133, 137 (Mo. 1974).

⁷*Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. 1985).